



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/716,814	11/20/2000	Thomas J. Maginot	1537-0018	9039

7590 02/05/2004  
Paul J. Maginot  
10269 Bent Creek Court  
Fishers, IN 46038

EXAMINER

SIRMONS, KEVIN C

ART UNIT PAPER NUMBER

3763

DATE MAILED: 02/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/716,814

Applicant(s)

MAGINOT, THOMAS J.

Examiner

Kevin C. Simons

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 33-3840-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37, 38, 44, 45, 51, 52 and 55 is/are allowed.
- 6) ☒ Claim(s) 33-36, 40-43, 46- 50, 53 and 56 is/are rejected.
- 7) ☒ Claim(s) 54 and 57 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 3763

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33, 40, 43, 46, 47 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vachon U.S. Pat. No. 5,531,780 in view of Martin U.S. Pat. No. 5,156,592.

Vachon discloses a guide catheter (20) having a distal guide orifice (36), a proximal guide orifice (col. 4, lines 7-9), and a guide lumen extending therebetween (col. 4, lines 3-17); a tube segment having a distal tube orifice, a proximal tube orifice and a tube lumen extending therebetween (172, 186), wherein said tube segment extends through said distal guide orifice (figs. 7 and 9), wherein said proximal tube orifice is positioned within said guide lumen (figs. 7 and 9), and wherein the distal tube orifice is positioned outside of said guide lumen (figs. 7 and 9). Martin discloses a tissue member secured to an outer surface of a catheter and configured to facilitate fibrous growth therein (57). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Vachon to include a tissue ingrowth member on an outer surface of a catheter body to permit body tissue to attach to the catheter during prolonged access and for better securing the catheter to the insertion site (col. 4, lines 35-40. As to claim 40, (the examiner considers the distal connector of 84, 184 to be the pusher); as to claim 43, (56); as to claims 46-47, (see above rejections); as to claim 50, (56).

Art Unit: 3763

Claims 33-36, 40-43 and 46-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoon U.S. Pat. No. 5,843,017 in view of Martin U.S. Pat. No. 5,156,592.

Yoon discloses a guide catheter (12) having a distal guide orifice (distal end of 24), a proximal guide orifice (proximal end of 24), and a guide lumen extending therebetween (the interior of 24); a tube segment having a distal tube orifice, a proximal tube orifice and a tube lumen extending therebetween (18), wherein said tube segment extends through said distal guide orifice (fig. 2), wherein said proximal tube orifice is positioned within said guide lumen (fig. 2), and wherein the distal tube orifice is positioned outside of said guide lumen (fig. 2). Martin discloses a tissue member secured to an outer surface of a catheter and configured to facilitate fibrous growth therein (57). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Yoon to include a tissue ingrowth member on an outer surface of a catheter body to permit body tissue to attach to the catheter during prolonged access and for better securing the catheter to the insertion site (col. 4, lines 35-40). as to claim 34, (pusher (64/74), closure member (77/83)); as to claim 35, (col. 9, lines 24-27); as to claim 36, ((79) is a metal wire which is attached to (76) which is a portion of tube (18); as to claims 40-43, 46-50 (see above rejections).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3763

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 53 and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by deCiutiis U.S. Pat. No. 5,092,848.

DeCiutiis discloses a catheter system comprising: a guide catheter (212 and all figs.); a tube segment (214 and all figs.); the device of deCiutiis is fully capable of performing all of the functions as set forth in claims.

#### ***Allowable Subject Matter***

Claims 37, 38, 44, 45, 51, 52 and 55 are allowable over the prior art of record.

Claims 54 and 57 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### ***Response to Amendment***

##### ***Specification***

The abstract of the disclosure has been amended to overcome the objection. Therefore, the rejection is withdrawn.

Art Unit: 3763

*Response to Arguments*

Applicant's arguments with respect to claims 33-38 and 40-52 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kevin C. Sirmons whose telephone number is (703) 306-5410. The examiner can normally be reached on Monday - Thursday from 6:30 am to 4:00 pm. The examiner can also be reached on alternate Fridays.

*KCS*  
Kevin C. Sirmons  
Patent Examiner  
1/28/04

*Brian L. Casler*  
**BRIAN L. CASLER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3763**